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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,043	10/29/2001	Dominique Coster	4004-022-30	8448

7590 08/11/2003

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EXAMINER

BOLDEN, ELIZABETH A

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 08/11/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-9

Office Action Summary

Application No.

09/914,043

Applicant(s)

COSTER ET AL.

Examiner

Elizabeth A. Bolden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-31 and 33-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-31 and 33-37 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Any rejections and or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

Claim Objections

Claim 26 is objected to due to the inconsistencies between the clean version of the amended claim and the marked-up version of the amended claim. The clean version of the claim lists TiO₂ as component (E) whereas the marked-up version shows that the TiO₂ component was deleted. Correction is required.

Claim Rejections - 35 USC § 112

The rejections of claims 22 and 34 under 35 U.S.C. 112, second paragraph, are withdrawn, since the record shows that the Fe₂O₃ content referred to is the total iron expressed in the form of Fe₂O₃.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

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(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 22-31 and 33-37 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Shelestak, U.S. Patent 6,313,053.

Shelestak discloses a blue soda- lime- silica glass comprising 0.40-1.0 wt% total Fe_2O_3 , 4-40 ppm CoO , 0-100 ppm Cr_2O_3 , having a redox ratio of greater than 0.356 to 0.60. See abstract of Shelestak. Shelestak further discloses that the glass comprises 0-400 ppm of V_2O_5 , 0-1.0 wt% of CeO_2 , 0-0.5 wt% of TiO_2 , and up to 38 ppm of MnO_2 . See column 11, lines 38-45 and 56-58 and column 6, lines 14-29. These ranges of coloring agents are sufficiently specific to anticipate the compositional limitations of claims 22-31 and 33-37. See MPEP 2131.03.

Shelestak discloses that the blue glass has a luminous transmittance (LTA) of greater than 65 %, a dominant wavelength of between 485 to 492, and an excitation purity of 3 to 18 %. See abstract of Shelestak. The reference further discloses that the TSET or the Total solar energy transmission is no greater than 55 %. See column 11, lines 9-11. These property ranges are sufficiently specific to meet the property limitations of claims 22-31 and 33-37. See MPEP 2131.03.

Shelestak discloses that these glasses are suitable for architectural and automotive glazing applications. See column 1, lines 12-15.

Claim 35 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Higby, U.S. Patent 5,780,372.

Higby discloses a soda-lime-silica glass comprising 1-3 weight % Fe_2O_3 , 0.1-1 wt% TiO_2 , 0-500 ppm Co_3O_4 , and a reduction ration of 10-37 % where the TLA is from 10 to 70 %

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with a blue green tint. See abstract of Higby. These ranges of coloring agents are sufficiently specific to anticipate the compositional limitations of claims 35. See MPEP 2131.03.

Higby discloses that the dominant wavelength is below 565 nm and the excitation purity is less than 22%. See column 3, lines 50-52. These property ranges are sufficiently specific to meet the property limitations of claims 22-26 and 29-34. See MPEP 2131.03.

Claim 35 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Krumwiede, U.S. Patent 6,103,650.

Krumwiede discloses a glass with a luminous transmittance up to 60%, a dominant wavelength of between 480-510 nm, an excitation purity no higher than 20%, where the glass comprises 0.9-2.0 wt % of total iron, 0.17-0.52 wt% FeO, about 40-150 ppm CoO, about 250-800 ppm Cr₂O₃, about 0.1-1 wt % of TiO₂. See abstract of Krumwiede. The reference discloses a redox ratio of from 0.15 to 0.35. See column 7, line2-3. Krumwiede further discloses that the glass may contain 0.1-0.32 wt% V₂O₅, 0-0.5 wt% MnO₂, and 0-2 wt% CeO₂. See column 7, lines 32-39 and 49-55. These cited ranges of coloring agents are sufficiently specific to anticipate the compositional limitations of claim 35. See MPEP 2131.03.

Krumwiede further discloses that the glass has a green blue color when the dominant wavelength is from 490-505 nm. See column 6, lines 9-12. These property ranges are sufficiently specific to meet the property limitations of claim 35. See MPEP 2131.03.

Response to Arguments

Applicants' arguments, see page 10, filed 22 April 2003, with respect to the rejections of claims 22-26 and 29-34 over Higby and claims 22-24, 26, 29, and 31-34 over Krumwiede have been fully considered and are persuasive. The rejections of claims 22-26 and 29-34 over Higby and claims 22-24, 26, 29, and 31-34 over Krumwiede have been withdrawn.

Applicants' arguments filed 22 April 2003 with respect to the rejection of claims 22-34 over Shelestak have been fully considered but they are not persuasive.

Applicants argue that some of the examples of Shelestak include TiO_2 , which is outside the range as recited in claim 22. However, this is not deemed persuasive for the following reasons. While, Shelestak discloses that analysis of examples 1-16 and 30-34 show up to about 0.013 and 0.021 wt % TiO_2 , respectively, Shelestak further discloses that TiO_2 are at tramp or residual levels and the glass can be produced with no or trace levels of TiO_2 . See column 6, lines 33-45. Furthermore, the phrase "up to about 0.013 wt %" includes any number below 0.013 as well as zero wt % of TiO_2 . These cited TiO_2 ranges of coloring agents are sufficiently specific to anticipate the compositional limitations of claims 22-31 and 33-37. See MPEP 2131.03 and the above rejection.

Applicants further argue that the examples of Shelestak do not disclose the dominant wavelength as defined by the instant claims. This is not deemed persuasive since the reference is not limited to the example alone. See MPEP 2123. Shelestak discloses a dominant wavelength from 485 to 492 nm. See column 2, lines 33-38. This dominant wavelength range is sufficiently

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specific to anticipate the dominant wavelength range limitations of claims 22, 28, 30, 33, and 35-37. See MPEP 2131.03 and the above rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 703-305-0124. The examiner can normally be reached on 8:30am to 6:00 pm with alternating Fridays off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 703-308-3823. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

EAB
August 8, 2003



DAVID SAMPLE
PRIMARY EXAMINER